

EXHIBIT 1

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ANGELINE MONTGOMERY,

Plaintiff,

vs.

MIDLAND CREDIT MANAGEMENT CO., et
al.,

Defendants.

ORIGINAL

) Case No.:
) 12-1244

DEPOSITION OF ANGELIQUE ROSS,

taken by the Plaintiff, commencing at the hour of
9:00 a.m. on Friday, March 1, 2013, at 530 "B" Street,
Suite 350, San Diego, California, before Julie A. McKay,
Certified Shorthand Reporter in and for the State of
California.

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ANGELIQUE ROSS

1 VIDEO TECHNICIAN: Will the court reporter
2 please swear in the witness.

3

4 ANGELIQUE ROSS,

5 having been first duly sworn, testified as follows:

6

7 EXAMINATION

8 BY MR. SOUMILAS:

9 Q. Good morning.

10 A. Good morning.

11 Q. Would you please state your full name for the
12 record.

13 A. Angelique Danielle Ross.

14 Q. May I call you Mrs. Ross?

15 A. Yes.

16 Q. Who is your employer, Mrs. Ross?

17 A. Midland Credit Management.

18 Q. Do I understand that you are the Consumer
19 Support Services Manager at Midland Credit Management?

20 A. Yes. One of them, yes.

21 Q. How long have you held that manager title?

22 A. Almost seven years.

23 Q. Is it true that you've worked for Midland
24 Credit Management for almost ten years now?

25 A. Yes.

ANGELIQUE ROSS

1 Q. Where is your office located?

2 A. 8875 Aero Drive in San Diego.

3 Q. Is that where Midland Credit Management's
4 headquarters is also located?

5 A. We have a -- another office also located in
6 San Diego.

7 Q. So are you in the main office in San Diego or
8 the second office?

9 A. I'm not in the corporate office. I'm in the
10 second office.

11 Q. And I understand the Midland Credit Management
12 also has facilities in St. Cloud, Minnesota; is that
13 correct?

14 A. That's correct.

15 Q. Anyplace else?

16 A. Yes.

17 Q. Where else?

18 A. Phoenix, Arizona; Gurgaon, India; and in Costa
19 Rica.

20 Q. Now, today you are giving testimony under oath
21 as a corporate representative of your employer Midland
22 Credit Management.

23 Do you understand that?

24 A. Yes.

25 Q. And you have also been designated as the

ANGELIQUE ROSS

1 corporate representative for a second Midland defendant
2 in this particular lawsuit, Midland Funding LLC.

3 Do you understand that you are speaking for
4 Midland Funding LLC also today?

5 A. Yes.

6 Q. And I understand that you have given testimony
7 under oath before in your life for both Midland Credit
8 Management and Midland Funding, correct?

9 A. Correct.

10 Q. Several occasions?

11 A. Correct.

12 Q. The particular notices that bring us here have
13 been premarked and placed in front of you as Ross 1 and
14 Ross 2.

15 (Plaintiff's Exhibit No. 1 marked for
16 identification.)

17 (Plaintiff's Exhibit No. 2 marked for
18 identification.)

19 BY MR. SOUMILAS:

20 Q. Do you have a copy of those, ma'am?

21 A. I do.

22 Q. And you will notice that Ross 1 requests a
23 representative to speak on a number of topics on behalf
24 of Midland Credit Management, Inc.

25 Do you see that?

ANGELIQUE ROSS

1 Do you see that?

2 A. Yes.

3 Q. You would agree with me that this collection
4 detail looks very similar to the collection detail
5 within Ross 5 that we see at Midland pages 9, 10 and 11?

6 A. Yes.

7 Q. Okay. And you will notice that both of these
8 collection detail notes from Ms. Montgomery's account
9 have certain data blocked out.

10 Do you see that?

11 A. Yes.

12 Q. I don't know why it's blocked out. But we have
13 both of these copies, so we might need to use them in
14 aid of your testimony so that we can explain to us the
15 chronology of this account. Okay?

16 A. Okay.

17 Q. So that's what I am going to do next. I'm
18 going to try to go with you through the history of this
19 account. And if you need to reference any of the
20 documents in Ross 5 or Ross 6 or any other document in
21 order to answer any of my questions, would you let me
22 know?

23 A. I will.

24 Q. Okay. So let's begin at the beginning.

25 Am I correct that Midland Funding purchased

ANGELIQUE ROSS

1 this account on December 9th, 2010?

2 A. Yes.

3 Q. Midland Funding did not purchase the account
4 from Capital One, but purchased it from a different
5 company called Atlantic Credit & Finance Special Finance
6 Unit III, LLC; is that correct?

7 A. (Witness reviews document.)

8 Q. And if it helps you, please look at Midland 7,
9 which appears to be the bill of sale.

10 A. Yes.

11 Q. This is a typical transaction where Midland
12 Funding buys debt from a secondary buyer, if you will?

13 A. In this case, yes, it was a secondary buyer.

14 Q. Right.

15 Sometimes Midland Funding purchases debt
16 directly from a credit card company and sometimes from a
17 secondary buyer.

18 Is that accurate?

19 A. Yes.

20 Q. The particular bill of sale that we have here
21 within Ross 5 of page Midland 7 says that the seller --
22 which is Atlantic Credit & Finance.

23 Am I correct about that?

24 A. Yes.

25 Q. -- says that it is providing business records

ANGELIQUE ROSS

1 regarding the accounts.

2 Do you see that in paragraph 2, which begins,
3 "Seller represents and warrants...?"

4 A. I'm sorry. You said -- can you repeat what you
5 asked me?

6 Q. Yes.

7 Paragraph 2 begins, "Seller represents and
8 warrants..."

9 Do you see that?

10 A. Yes.

11 Q. And there is -- does the seller represent and
12 warrant that it is providing the seller's own business
13 records regarding the accounts?

14 A. Yes.

15 Q. Okay. So I take it there are many accounts
16 being purchased all at the same time from Atlantic
17 Credit & Finance, correct?

18 A. Yes.

19 Q. And Ms. Montgomery's was one of them?

20 A. Yes.

21 Q. All right. And the bill of sale further says
22 it has -- "The Seller has in this sale provided the
23 unadulterated electronic records of all original lenders
24 and previous sellers regarding the accounts."

25 Do you see that?

ANGELIQUE ROSS

1 A. Yes.

2 Q. Would the original lender in the case of
3 Ms. Montgomery be Capital One?

4 A. Yes.

5 Q. And subsequent sellers would be someone else
6 who may have owned this debt before Midland such as
7 Atlantic Credit & Finance, correct?

8 A. Yes.

9 Q. And according to this bill of sale, Atlantic
10 Credit & Finance is conveying to Midland Funding not
11 only its own records, but also the unadulterated
12 electronic records of all original lenders and previous
13 sellers, correct?

14 A. Correct.

15 Q. All right. So almost immediately within two
16 days, the account gets loaded onto Midland's system for
17 collection. So if you look at Midland 11, for example,
18 there is an entry two days later, December 11th, 2010.

19 Do you see that?

20 A. Yes.

21 Q. That appears to be the first entry in the
22 collection detail for this particular Capital One
23 account for Ms. Montgomery, correct?

24 A. Correct.

25 Q. All right. And then we turn to -- am I correct

ANGELIQUE ROSS

1 that Midland Credit Management would attempt to call
2 Ms. Montgomery?

3 A. Is your question that we did call
4 Ms. Montgomery or --

5 Q. No. Would the regular course -- strike that.

6 You told me that Midland Credit Management
7 services these debts by calling and sending letters and
8 on occasion referring them to law firms for legal
9 action, correct?

10 A. Yes. So we -- we do call on accounts. We do
11 letter accounts. And we do refer to law firms.

12 Q. Okay. Am I correct that Midland Credit
13 Management, according to its own records, attempted to
14 call Ms. Montgomery concerning this debt on
15 December 18th, 2010, about a week after it loaded it
16 onto its system for collections?

17 A. Yes.

18 Q. And the call, according to your verified
19 interrogatory response, was about 6:39 in the morning,
20 correct?

21 A. Yes. That's what the records say.

22 Q. All right. Now, the records also say that
23 Ms. Montgomery answered the call and advised Midland
24 Credit Management that it needed to substantiate this
25 debt; isn't that correct?

ANGELIQUE ROSS

1 That's what it says, right?

2 A. Correct.

3 Q. She didn't call you. You called her. Isn't
4 that correct?

5 A. Yes.

6 Q. She had no reason to call you since she didn't
7 even know that Midland Credit Management had purchased
8 the debt a week earlier, correct?

9 A. I mean -- no, I don't think she knew that.

10 Q. So she had no reason to just call you. She --
11 she would not have received a letter that was prepared
12 that same day, correct?

13 A. Correct.

14 Q. All right. So the phone call happened first,
15 correct?

16 A. Correct.

17 Q. And according to your verified response, the
18 plaintiff -- that would be Ms. Montgomery -- asked for,
19 quote, something, end quote, to substantiate the debt,
20 correct?

21 A. Yes.

22 Q. Ms. Montgomery did not say she owed the debt
23 and that you could just charge her for it, correct?

24 A. No, she didn't say that she owed the debt.

25 Q. Okay. So your characterization of that

ANGELIQUE ROSS

1 transaction was that she was asking for some proof or
2 substantiation concerning this debt, correct?

3 MR. SCHWARTZ: Objection. Objection as to
4 form. I think you are taking it out of context.

5 BY MR. SOUMILAS:

6 Q. You can answer, ma'am.

7 A. I -- I don't read that as she asked for proof.
8 I just read that as she wanted something to -- when it
9 says substantiate something in writing stating that
10 there was a debt, that we were the ones that -- Midland
11 Funding owned it and that Midland Credit was servicing
12 it. So some acknowledgment that we had the debt that we
13 were attempting to collect on.

14 Q. Okay. And the only other information that you
15 have concerning this phone call was that Ms. Montgomery
16 hung up the phone when a representative from Midland
17 Credit Management asked her what her intentions were
18 regarding the debt?

19 A. Yes.

20 Q. You don't take this first call as an
21 acknowledgment by Ms. Montgomery that she owed the debt,
22 correct?

23 A. No.

24 Q. Do you take it as a dispute? That she's
25 telling Midland Management that "I don't agree that I

ANGELIQUE ROSS

1 A. I'm not sure what you mean.

2 Q. Look at Midland 6, please.

3 Would you agree with me that, according to your
4 own record, the balance on the Capital One debt was
5 \$6,871.53?

6 A. It's listed as the previous balance.

7 Q. Okay. Is that the Capital One balance?

8 A. Let me see.

9 I believe so. I'm not positive.

10 Q. Did Midland Credit Management add about \$700 in
11 interest at six percent on this debt?

12 A. Yes.

13 Q. You would agree with me that Midland Credit
14 Management has no legal right to add interest on this
15 debt?

16 MR. SCHWARTZ: Objection as to form.

17 You can answer, if you can.

18 THE WITNESS: No, I wouldn't agree with that.

19 BY MR. SOUMILAS:

20 Q. You're trained in the Fair Debt Collection
21 Practices Act, correct?

22 A. Yes.

23 Q. That is the federal statute that regulates your
24 entire business, correct?

25 A. Correct.

ANGELIQUE ROSS

1 Q. Are you of the view that Midland could add
2 interest on debts absent a statutory right to do it or
3 an expressed contract to do it?

4 A. I -- I don't know if I can answer that
5 question.

6 Q. Okay. Are you aware of any statutory right
7 that would allow Midland to add interest on this debt?

8 A. I don't know.

9 Q. Are you aware of any contract that explicitly
10 allows for six percent interest to be added on this
11 debt?

12 A. I don't know that, either.

13 Q. Okay. You would agree with me that when
14 Ms. Montgomery was later sued for an amount owed to --
15 on the Capital One debt, they didn't add the interest,
16 right? They went back to the 6879 figure?

17 A. I believe so, yes.

18 Q. But on the initial letter when she was asked to
19 pay, you tacked on another \$700 in interest, according
20 to the letter dated December 18th, 2010, correct?

21 A. Yes.

22 Q. Okay. Now, let's go back to your notes.

23 Am I correct that about a month later,
24 January 17th, 2011, Ms. Montgomery had another telephone
25 call with Midland Credit Management?

ANGELIQUE ROSS

1 A. Yes.

2 Q. This time she called you?

3 A. Yes.

4 Q. And according to your notes, you received that
5 telephone call, correct?

6 A. Correct.

7 Q. And according to your notes, the consumer --
8 that would be Ms. Montgomery -- claimed she was a victim
9 of fraud, slash, identity theft, correct?

10 A. Yes.

11 Q. All right. Now, that was January 17th, 2011?

12 A. Yes.

13 Q. Two days later, Midland sent this account to be
14 reported on Ms. Montgomery's credit reports, correct?

15 A. Yes.

16 Q. And this was reported as a derogatory account,
17 correct?

18 A. As a collection account, yes.

19 Q. That is a derogatory account. It's not a
20 positive account or a neutral account. It's a negative
21 account.

22 You would agree with me?

23 A. I -- I agree. It's not positive.

24 Q. It's negative. Would you agree with that?

25 A. Yeah.

ANGELIQUE ROSS

1 Q. Okay. So it's a collection account to be
2 placed on all three of her credit reports with the
3 national credit reporting agencies, correct?

4 A. Yes.

5 Q. And reported by Midland Credit Management,
6 correct?

7 A. Correct.

8 Q. Okay. Now, continuing on the notes that
9 Midland has concerning this account, am I correct as a
10 result of that call, Midland sent a letter to
11 Ms. Montgomery?

12 A. No. Do you mean based on that call?

13 Q. Based on that call, did -- did Midland send a
14 letter to Ms. Montgomery -- yeah, that was my question.

15 A. Indirectly. The -- there was a delay in
16 sending that letter as per our process because we were
17 waiting to receive the letter of dispute from
18 Ms. Montgomery.

19 So it wasn't -- it wasn't that that
20 conversation happened and the -- the letter was
21 immediately triggered.

22 Q. Okay. Give me a moment, please.

23 (Pause in proceedings.)

24 Ms. Ross, I'm now going to put in front of you
25 certain records that Ms. Montgomery produced to the

ANGELIQUE ROSS

1 Midland defendants in this case. I've marked them
2 collectively as Ross 8 for purposes of our handling here
3 today.

4 (Plaintiff's Exhibit No. 8 marked for
5 identification.)

6 BY MR. SOUMILAS:

7 Q. And I'll represent to you that these are not
8 all the -- the records that we produced, but there are
9 some that we might reference here today.

10 And, in particular, I would like to direct your
11 attention to a letter that is within this stack of
12 documents and has "Montgomery 49" at the bottom of it.

13 Would you please take a look at that letter.
14 Do you have it?

15 A. Yes.

16 Q. Okay. And now we are at February 2nd, 2011,
17 according to this letter. "Yes"?

18 A. Yes.

19 Q. And it is a letter by Midland Credit Management
20 to Ms. Montgomery, correct?

21 A. Correct.

22 Q. And the purpose of this letter in early
23 February is to acknowledge her dispute and to try to
24 gather information for your investigation, correct, into
25 that dispute?

ANGELIQUE ROSS

1 A. Yes.

2 Q. All right. So I'm trying to figure out whether
3 the thing that prompted -- that prompted this letter
4 going out is a telephone call that happened the previous
5 month around January 17th.

6 A. So it's -- the answer is kind of yes and no.

7 The --

8 Q. Please explain.

9 A. When the consumer called in and claimed
10 identity theft, her verbal dispute was within the
11 validation period. So as part of our process, we do ask
12 consumers to send in something in writing stating what
13 their dispute is, which is captured in the notes there.
14 Just a letter of dispute. We did not ask for proof at
15 that time.

16 And then the account is coded so that it can be
17 sequestered and sit in a non-collection activity type
18 holding space in our system. That is to allow the
19 consumer time to send in their letter of dispute. While
20 the FDCPA says 30 days, we actually give 45 just to
21 allow for any mail delays.

22 And so that account stayed in that area of our
23 system for the remainder of that -- the 45 days from the
24 date of the first letter. And then once we didn't
25 receive anything during that period of time, we then

ANGELIQUE ROSS

1 send out a letter, which is the letter you referenced,
2 then saying, you know, we need more information.

3 Q. All right. Let me make sure I understand the
4 chronology correctly.

5 It is the telephone call around January 17th
6 that prompts Midland Credit Management to put the
7 account in this hold status because it's under dispute,
8 correct?

9 A. Correct.

10 Q. All right. Now, according to your notes, if
11 you look back at Ross 5, please.

12 A. Uh-huh.

13 Q. And those are the account notes?

14 A. Yes.

15 Q. Midland 10, do you have those?

16 A. Yes.

17 Q. Do you see the entry on the far right-hand
18 side? It says, "February 1, 2011."

19 A. Yes.

20 Q. Do you see the note on the left-hand side says,
21 "Okay for work dispute outside validation period.
22 Consumer needs to send proof"?

23 A. Correct.

24 Q. Okay. So the note on February 1st was that
25 it's okay to work this account, correct?

ANGELIQUE ROSS

1 A. Yes, because the consumer had not sent in the
2 written letter of dispute inside the validation period
3 as was requested.

4 Q. In fact, the letter that Midland Credit
5 Management sent to Ms. Montgomery asking for this proof
6 didn't go out until the next day, February 2nd,
7 according to Montgomery 49; isn't that correct?

8 A. Yeah, that's correct.

9 Q. Okay. So in that letter, you say, "The purpose
10 of this letter is to request your assistance so that we
11 may reach a quick resolution to your dispute."

12 Do you see that?

13 A. Yes.

14 Q. Okay. The day before, the account had already
15 been okayed to work, correct?

16 A. Correct.

17 Q. And then the second paragraph begins, "As part
18 of our investigation of your dispute, it would be
19 helpful to have a copy of any documentation that you may
20 have that supports your dispute."

21 Do you see that?

22 A. I do.

23 Q. Okay. That's part of Midland Credit
24 Management's investigation, according to this letter,
25 correct?

ANGELIQUE ROSS

1 A. It -- it is part of it after the validation
2 period.

3 Q. Right.

4 There was no investigation done whatsoever;
5 isn't that correct?

6 A. Are you talking about when --

7 Q. In the February 2011 time frame, Midland
8 conducted no investigation. There is no record of any
9 investigation into Ms. Montgomery's dispute; isn't that
10 correct?

11 A. Not a specific investigation. We would always
12 wait to get the -- receive the letter of dispute before
13 initiating the investigation.

14 Q. But Midland did not go out on its own and try
15 to get any supporting documentation concerning
16 Ms. Montgomery's dispute, correct?

17 A. No, because that's triggered by the written
18 request from the consumer during that validation period.

19 Q. Okay. So I want to understand what they are
20 telling Ms. Montgomery will be part of your
21 investigation into this matter in February of 2011.

22 Did Midland interview a single person
23 concerning Ms. Montgomery's dispute?

24 A. In February?

25 Q. Yes.

ANGELIQUE ROSS

1 A. Not to my knowledge.

2 Q. Did Midland obtain any records from Capital One
3 that might show that Ms. Montgomery had disputed the
4 account as a fraud years earlier with Capital One?

5 A. I don't know that we requested those in
6 February. As I mentioned, the investigation would have
7 been triggered by her written letter of dispute, which
8 didn't occur.

9 Q. You would agree with me that the letter dated
10 February 2nd, 2011 says, "As part of our investigation
11 into your dispute..."

12 That's how the second paragraph begins,
13 correct?

14 A. Yes.

15 Q. Okay. Let's just focus on whether there was
16 any investigation into her dispute in the February 2011
17 time frame.

18 You've agreed so far that Midland Credit
19 Management interviewed no witnesses, correct?

20 A. Correct.

21 Q. And you would agree with me that it gathered no
22 documents on its own.

23 Do you agree with that?

24 A. Not to my knowledge. We didn't in February.

25 Q. There is no record that Midland went back to

ANGELIQUE ROSS

1 Capital One and got the original application for this
2 credit account, correct?

3 A. No, because we hadn't received the written
4 letter of request from Ms. Montgomery.

5 Q. But you had received her dispute that she
6 claimed to be a victim of fraud and identity theft two
7 weeks earlier, correct?

8 A. Yes. We -- as part of that verbal dispute, we
9 requested that she send something in writing. And when
10 that didn't happen, then the -- we trigger the account
11 movement and then this letter to request now at that
12 point that the consumer provide proof of their dispute.

13 Q. No. I must respectfully disagree with you.
14 That's not what your letter says.

15 MR. SCHWARTZ: Objection. Objection. Are you
16 going to ask a question?

17 MR. SOUMILAS: Yeah, I will ask a question.

18 BY MR. SOUMILAS:

19 Q. Would you agree with me that the letter says
20 that "It would be helpful to have a copy of any
21 documentation that you may have that supports your
22 dispute"?

23 That's what your letter says, correct?

24 A. Yes.

25 Q. And it also says that as part of Midland's

ANGELIQUE ROSS

1 investigation, such documentation from Ms. Montgomery
2 would be helpful, correct?

3 A. Correct.

4 Q. All right. So I'm focusing not on what
5 Ms. Montgomery may have sent that Midland would consider
6 to be helpful. I'm focusing on what Midland may have
7 done as part of its own investigation.

8 Are you with me?

9 A. Yes.

10 Q. So am I correct that Midland did not obtain any
11 police report from Capital One concerning
12 Ms. Montgomery's dispute of fraud?

13 MR. SCHWARTZ: Objection as to form. Objection
14 as to form.

15 MR. SOUMILAS: Fine.

16 BY MR. SOUMILAS:

17 Q. In February of 2011, am I correct that Midland
18 Credit Management did not obtain any police report from
19 Capital One concerning Ms. Montgomery's dispute of
20 fraud?

21 MR. SCHWARTZ: Verbal dispute?

22 MR. SOUMILAS: Verbal dispute, yes.

23 MR. SCHWARTZ: Thank you.

24 THE WITNESS: No, we did not.

25

ANGELIQUE ROSS

1 BY MR. SOUMILAS:

2 Q. Am I correct that in response to
3 Ms. Montgomery's verbal dispute of fraud, Midland Credit
4 Management did not obtain any fraud affidavit that
5 Ms. Montgomery had filled out with Capital One?

6 A. No. We requested that she send something in
7 writing, and that didn't happen, so we did not talk to
8 Capital One in February.

9 Q. And you -- you, Midland Credit Management,
10 conducted no investigation whatsoever in February 2011
11 into Ms. Montgomery's verbal dispute of fraud; isn't
12 that correct?

13 A. Not a typical investigation. The process is to
14 document what's being said to mark the account so it can
15 be recorded as disputed and to request a letter of
16 dispute.

17 Q. You did not conduct an investigation that
18 involved speaking with any witnesses or gathering any
19 documents.

20 Is that accurate?

21 A. Yes.

22 Q. Yes, that's accurate? Correct?

23 A. Correct.

24 Q. All right. Now, the very next day after your
25 February 2nd, 2011 letter, Midland decided to send this

ANGELIQUE ROSS

1 account to a law firm so that Ms. Montgomery could get
2 sued; isn't that right?

3 MR. SCHWARTZ: Objection as to form.

4 You can answer, if you can.

5 MR. SOUMILAS: I will rephrase it.

6 BY MR. SOUMILAS:

7 Q. The very next day after your February 2nd, 2011
8 letter, Midland Credit Management referred this account
9 to a law firm to consider suing Ms. Montgomery for the
10 Capital One debt?

11 A. No. It looks like it was referred on 2/20.

12 Q. What does "Sent to legal" mean?

13 A. It's a program. That's what the "CC0130R"
14 means.

15 Q. Would you please take a look at the document
16 we've marked as Ross 5. I'm sorry. It would be Ross 6
17 for purposes of today.

18 A. Yes.

19 Q. Do you see the collection detail notes for this
20 account on the second page? They are in
21 chronological -- reverse chronological order.

22 A. Yes.

23 Q. Do you see an entry on February 3rd, 2011?

24 A. Yes.

25 Q. And on that entry, it says, "Sent to MCM

ANGELIQUE ROSS

1 legal."

2 What does that mean?

3 A. To my knowledge, it's a program in our system
4 that will review accounts.

5 Q. It's a program in Midland's computer system?

6 A. Yes.

7 Q. That will review accounts of debts for what
8 purpose?

9 A. I believe it's to review to see if accounts are
10 eligible to be sent to a firm.

11 Q. Does this computer system know how to do -- to
12 trigger that review on its own or does somebody actually
13 do it?

14 A. I know a person manages it. I don't know
15 exactly how the program works.

16 Q. According to the entry that we have here, does
17 it look like it's a computer-generated entry to send
18 this account to legal?

19 A. Yes.

20 Q. So would you agree with me that it looks like
21 Midland's computer decided the day after it sent a
22 letter asking for some helpful information from
23 Ms. Montgomery to refer this matter to legal for a
24 possible lawsuit?

25 A. It looks like the system generated that review

ANGELIQUE ROSS

1 A. I'm not aware of any specific person that made
2 it -- that decision.

3 Q. Okay. You've not identified anybody, correct?

4 A. No.

5 Q. And you are familiar with the entries that we
6 see here in the account detail screens, correct?

7 A. Correct.

8 Q. And as far as you could tell, they appear to be
9 computer-generated entries. The system themselves put
10 them in, correct?

11 A. Yes.

12 Q. Because this particular account was one that
13 met the profile as one eligible for a possible lawsuit,
14 correct?

15 A. Yes. It would have had to in order to be
16 referred.

17 Q. Right.

18 And you are aware that there was a lawsuit that
19 Burton Neil & Associates, in fact, brought against
20 Ms. Montgomery, correct?

21 A. Yes.

22 Q. You are aware that a Midland Credit Management
23 employee signed an affidavit in support of that lawsuit,
24 correct?

25 A. Yes.

ANGELIQUE ROSS

1 Q. The notes show that the affidavit would have
2 been requested on February 26, 2011. Am I correct about
3 that?

4 A. Yes.

5 Q. Was it requested by the You Got Claims computer
6 system?

7 A. The You Got Claims system would have
8 transmitted the request, but to my knowledge, the system
9 itself is not requesting anything. That request has to
10 be triggered by a person.

11 Q. Okay. Who triggered the request on February 26
12 for an affidavit to be provided?

13 MR. SCHWARTZ: I'm going to object. I'm going
14 to object. I'm going to object. It's attorney-client
15 privilege between Burton Neil and Midland.

16 I'm going to ask that she doesn't respond to
17 that question.

18 BY MR. SOUMILAS:

19 Q. Are you aware that the affidavits that Midland
20 Credit Management uses in bringing collection lawsuits
21 against consumers are generated and prepared by the You
22 Got Claims computer system?

23 MR. SCHWARTZ: I'm --

24 THE WITNESS: I don't believe that's accurate.
25 I don't believe that the You Got Claims prepares the

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1 affidavits.

2 BY MR. SOUMILAS:

3 Q. Does -- does somebody actually type those
4 affidavits out?

5 A. To my knowledge, there is templates used and
6 information is -- there is specific account-related
7 information that's populated into it.

8 So if -- if you're asking me if someone is
9 manually typing every single affidavit, no, I don't
10 believe that to be the case.

11 Q. So let's make sure I understand this. The --
12 there is a template so that all affidavits use certain
13 boilerplate language, if you will?

14 A. Yes. They can vary, but yes.

15 Q. They can vary from court to court if it's
16 determined that a particular court needs different type
17 of language in these affidavits, correct?

18 A. That could be one factor. It could be state
19 related as well.

20 Q. But in Philadelphia, for example, there is a
21 form for the particular affidavit to be used in
22 Philadelphia that's used over and over and over again,
23 correct?

24 A. Yes.

25 Q. And when you say that data is populated into

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1 A. Yes.

2 Q. Okay. Now, are you aware that at some point
3 Midland Credit Management terminated the lawsuit against
4 Ms. Montgomery?

5 MR. SCHWARTZ: Objection as to form.

6 You can answer, if you can.

7 THE WITNESS: Yes, I know it stopped at some
8 point.

9 BY MR. SOUMILAS:

10 Q. That's what I meant. I meant that at some
11 point, the lawsuit stopped.

12 Do you know how it stopped?

13 A. I believe after the documents provided by
14 Ms. Montgomery related to fraud were received, then
15 there was a request made by Midland to stop.

16 Q. When did Midland make that request?

17 A. That would have been -- looks like 7/28/2011.

18 Q. I'm sorry. When was that?

19 A. 7/28/2011.

20 Q. That would be July 28th, 2011?

21 A. Yes.

22 Q. And what are you looking at to come up with
23 that answer?

24 A. I'm looking at Ross 5, the account notes.

25 MR. SCHWARTZ: Bates stamped Midland 9, 10.

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1 BY MR. SOUMILAS:

2 Q. Where the entry says, "Follow up with firm.
3 Suit has been dismissed"? There?

4 A. Actually, below that. So before that, there
5 was a -- once the information was received by Midland,
6 then the request was sent back. It says, "Rule." The
7 very last line of the entry on 7/28/2011 at 10:58 says,
8 "Will recall account from firm."

9 Q. Okay. And who at Midland Credit Management
10 made that decision to recall the account?

11 A. I cannot remember who specifically did it, but
12 their collector code is ERR.

13 Q. You have not spoken with that person in
14 connection with this case?

15 A. No.

16 Q. Am I correct that a little bit more than a
17 month later Midland received a refund from the issuer
18 for this account?

19 A. Yes.

20 Q. So that would have been that entity that sold
21 it to you, the Atlantic -- I'm sorry. I forget their
22 name.

23 MR. SCHWARTZ: Atlantic Credit Finance.

24 BY MR. SOUMILAS:

25 Q. Is that right? Atlantic Credit Finance?

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1 A. Yes.

2 Q. All right. And am I correct that at some
3 point, again, about a month, month and a half later,
4 Midland Credit Management wrote a letter to
5 Ms. Montgomery dated September 15th, 2011?

6 A. Let's see. Yes.

7 Q. If it helps you, I think it's -- we have a copy
8 of it within Ross 8 at Montgomery 48.

9 Does that help you?

10 A. Yes.

11 Q. All right. And in that letter, Midland Credit
12 Management says that "The above referenced Capital One
13 account was transferred to MRC Receivables Corp. and
14 referred to Midland Credit Management."

15 What's MRC Receivables Corp.?

16 A. That was another purchasing entity for --

17 Q. I thought you told me in this case the
18 purchasing entity was Midland Funding for this
19 particular accounts; is that correct?

20 A. I -- I don't know if I said that Midland
21 Funding purchased it, but...

22 Q. But what?

23 A. It -- MRC Receivables was another entity that
24 purchased accounts at the time. I believe all have been
25 transferred over to Midland Funding.

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1 And then the next sentence says that "MCM" -- I
2 guess that's Midland Credit Management -- "has since
3 been informed that this account was transferred in error
4 and has been recalled by Capital One."

5 That's not a true statement either, is it?

6 A. It would have been recalled by Atlantic Credit.

7 Q. Right.

8 Capital One didn't do any recalling, correct?

9 A. Correct.

10 Q. And -- and the reason why Midland Credit
11 Management terminated the lawsuit and sent the account
12 back to Atlantic Credit for a refund is because the
13 account was a result of fraud; isn't that correct?

14 MR. SCHWARTZ: Objection as to form.

15 You can answer, if you can.

16 THE WITNESS: Well, I guess more specifically
17 the reason it was recalled is because we received proof
18 that it was the result of fraud.

19 BY MR. SOUMILAS:

20 Q. Okay. So it wasn't an error that it was sent.
21 It was a determination made that the account was a
22 result of fraud, correct?

23 A. Well, we believe if it was transferred to us
24 and already fraud, then that would be an error.

25 Q. Okay. Now, if you look within Ross 5 at

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1 assigned to that code.

2 Q. All right. But there is a way of deleting
3 accounts due to fraud as well, correct?

4 A. I believe so, yes.

5 Q. You are familiar -- very familiar with credit
6 reporting, correct?

7 A. I'm familiar with it, yes.

8 Q. Yes. And the reason why this account was
9 terminated was because of substantiation of fraud,
10 correct?

11 A. Correct.

12 Q. Are you aware that Capital One had made a
13 determination in 2009, two years earlier, that this
14 account was an account that Ms. Montgomery was not
15 responsible for?

16 A. Based on a letter, yes.

17 Q. Okay. Are you aware that the lawsuit which
18 was --

19 A. Can we take a small break?

20 Q. We're going to take one in just a minute,
21 because we are about done with the chronology and this
22 is a perfect time to take a break.

23 But I wanted to ask you whether you knew that
24 the attorneys who dismissed the lawsuit on Midland
25 Funding's behalf dismissed it without prejudice.

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1 A. Yes, I'm aware.

2 Q. Do you understand that to mean that
3 Ms. Montgomery could get sued again for that same debt
4 because the suit was dropped without prejudice?

5 MR. SCHWARTZ: Objection as to form.

6 BY MR. SOUMILAS:

7 Q. What's your understanding of that?

8 A. My understanding is yes, it's possible. But
9 since we have the account and we shut it completely
10 down, we don't re-enable those accounts or do any
11 further collection activity after that happens.

12 Q. And are you aware that the attorneys who
13 handled the lawsuit never bothered to tell
14 Ms. Montgomery that she wasn't required to show up to
15 court to defend herself on the scheduled court date?

16 A. I don't know that I'm aware of that.

17 Q. Okay.

18 A. I don't recall.

19 MR. SOUMILAS: This is a good time for a break.

20 THE WITNESS: Okay.

21 MR. SOUMILAS: Let's go off the record.

22 VIDEO TECHNICIAN: This ends Media Number 1 in
23 the deposition of Angelique Ross.

24 Time off the record 10:26 a.m.

25 (Recess.)

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1 provided by the creditor when Midland Funding acquired
2 the subject debt in December of 2010 showing that the
3 Capital One debt was due and owing for Plaintiff."

4 And then it says, "See a copy of the Capital
5 One loan attached as Exhibit A to the answer."

6 Do you see that?

7 A. Yes.

8 Q. So you would agree with me that at least as of
9 April 2012, Midland denied that Ms. Montgomery was not
10 responsible for this debt?

11 A. I -- I'm not reading it that way. I'm reading
12 it as at the time -- at the time information was
13 provided during -- during that time, we relied on the
14 information from the creditor.

15 Q. All right. Well, the answer speaks for itself.

16 Speaking -- sitting here today, as a
17 representative of both Midland Credit Management and
18 Midland Credit Funding, is it your position that
19 Ms. Montgomery owed that Capital One debt?

20 A. Is it our position now that she owed the debt?

21 Q. Is it your position sitting here today,
22 correct?

23 A. No, not today.

24 Q. Okay. Your position today is that she was a
25 victim of fraud?

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1 A. I believe just Capital One's letter said that
2 she didn't owe the debt. And, yeah, she did file a
3 police report, so I believe that to be true.

4 Q. Okay. And given that position, would it also
5 be true that Midland Funding and Midland Credit
6 Management will not sue Ms. Montgomery again for this
7 debt and have no intention of doing so?

8 A. That's correct.

9 Q. Okay. You would agree with me that, according
10 to your records, this was a consumer debt, correct?

11 A. I -- I believe so.

12 Q. That's what it says right there in Ross 5.

13 Those are Midland's account records for this account at
14 Midland 8, please. Page 8 on the top left-hand side, it
15 says, "Product type: General consumer loan."

16 A. (Inaudible.)

17 Q. I'm sorry?

18 A. Yes, it says that.

19 Q. All right. Now, having gone through the
20 chronology that we've gone to with respect to this
21 account, do you believe that Midland Credit Management
22 followed its usual policies and procedures in attempting
23 to collect monies for the Capital One debt from
24 Ms. Montgomery?

25 A. Yes. And are you referring to the phone calls

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1 Management ever requested the original application for
2 this Capital One account at any time?

3 A. I haven't personally seen it, but that doesn't
4 mean that it wasn't requested.

5 Q. Okay. Well, speaking as you are as a corporate
6 representative for both Midland Credit Management and
7 Midland Funding, are you aware of any record that shows
8 that anyone from the two Midland businesses ever
9 requested the original application for this Capital One
10 account?

11 MR. SCHWARTZ: Objection as to form.

12 BY MR. SOUMILAS:

13 Q. You can answer it.

14 A. I haven't seen anything, no.

15 Q. Am I correct that Midland Credit Management and
16 Midland Credit Funding never obtained any statements
17 from Capital One like mostly billing statements
18 concerning this account?

19 A. I don't believe so, no.

20 Q. Am I correct that Midland Credit Management and
21 Midland Funding never obtained any affidavit of fraud
22 that Ms. Montgomery provided to Capital One?

23 A. As far as I know, not -- not from Capital One
24 or Atlantic. Just what was provided by Ms. Montgomery
25 later.

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1 Q. Am I correct that neither Midland Credit
2 Management or Midland Funding obtained from Capital One
3 or Atlantic any dispute history concerning with a
4 Capital One account?

5 A. No, we did not.

6 Q. And am I correct that the Midland businesses
7 did not obtain any police report from either Capital One
8 or Atlantic concerning this account?

9 A. No, we didn't.

10 Q. Are you aware of any other documentation that
11 Midland Credit Management or Midland Funding obtained
12 from either Atlantic Credit or Capital One concerning
13 this account other than the front and back of this check
14 that we see here within Ross 10?

15 A. No, I'm not aware of it.

16 Q. So this is the only item of information
17 concerning the account at issue that you obtained from
18 either Capital One or Atlantic, correct?

19 A. Well, we did receive information from them
20 related to the account, but not like in this form. So
21 there would have been account information that we used
22 to put -- load the account into our system.

23 Q. Right.

24 So remember earlier in reference to the bill of
25 sale, it had reference "unadulterated electronic

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1 records" concerning the account?

2 A. Uh-huh.

3 Q. "Yes"?

4 A. Yes.

5 Q. So you don't have any unadulterated electronic
6 records about the application, the statements, the
7 billing history, the dispute history, nothing, correct?

8 A. Not to my knowledge, we don't have that. We
9 just have other -- the other information that was given
10 to us in the electronic file.

11 Q. So this was electronic information that was
12 obtained at the time of the purchase of the account,
13 correct?

14 A. Yes.

15 Q. And that would be information about who
16 allegedly owes the account, name, address, that type of
17 personal identifying information?

18 A. Yes, that's some of it.

19 Q. The amount, the account number, correct?

20 A. Correct.

21 Q. What else?

22 A. Open date. Last payment date, if there was
23 one. Sometimes a phone number. That's what I can think
24 of offhand.

25 Q. Okay. Let's move on to the next page of

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1 might just want to refer to that. It might be easier.

2 A. Okay. I have it.

3 Q. You have it?

4 A. Yes.

5 Q. Now, is it your understanding that this
6 particular affidavit was prepared in the normal course
7 of how Midland prepares these affidavits?

8 A. Yes.

9 Q. And it looks like it was signed March 11th,
10 2011; is that correct?

11 A. Yes.

12 Q. Now, am I also correct that according to
13 Midland's own internal collection detail records for the
14 Capital One account, which are in Ross 5 if you need to
15 reference that, am I correct that Midland had a
16 telephone dispute from January 17, 2011 advising it that
17 Ms. Montgomery believed that this account was fraud and
18 identity theft, according to -- to the notes in the
19 system?

20 A. Yes.

21 Q. Are you aware that in preparing this
22 verification on March 11th, 2011, whether Ms. Hoffman
23 even looked at the account notes in Midland Credit
24 Management's own computer system concerning this
25 account?

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1 A. I can't answer what exactly she did.

2 Q. Okay. You don't have any indication that --
3 you've never spoken with Ms. Hoffman, correct?

4 A. No.

5 Q. Have you read the testimony that she gave in
6 this case, a transcript of it?

7 A. No.

8 Q. Speaking for the Midland defendants today, do
9 you know whether Ms. Hoffman looked at any of the
10 collection detail notes in Midland's own records before
11 signing the affidavit?

12 A. Well, she signed that she had access to and
13 reviewed the records. So, I mean, that's the only --
14 that's the basis I have to -- to say that. I have not
15 talked to her specifically.

16 Q. I know that she signed that she did them. I'm
17 asking whether, as a matter of fact, you know that she,
18 in fact, reviewed the -- the account detail records?

19 A. I only have what's in front of me in terms of
20 what she signed and notarized.

21 Q. So you don't know one way or the other?

22 A. Well, based on her statement under penalty of
23 perjury, she did. But I didn't ask her specifically or
24 talk to her about what she reviewed.

25 Q. Okay. Do you know whether Ms. Hoffman reviewed

1 STATE OF CALIFORNIA)

: ss.

2 COUNTY OF SAN DIEGO)

3 I, Julie A. McKay, Certified Shorthand Reporter in
4 and for the State of California, Certificate No. 9059,
5 do hereby certify:

6 That the witness in the foregoing deposition was by
7 me first duly sworn to testify the truth, the whole
8 truth, and nothing but the truth in the foregoing cause;
9 that the deposition was taken before me at the time and
10 place herein named; that said deposition was reported by
11 me in shorthand and transcribed, through computer-aided
12 transcription, under my direction; and that the
13 foregoing transcript is a true record of the testimony
14 elicited at proceedings had at said deposition.

15 I do further certify that I am a disinterested
16 person and am in no way interested in the outcome of
17 this action or connected with or related to any of the
18 parties in this action or to their respective counsel.

19 In witness whereof, I have hereunto set my hand
20 this

21 
22

Julie A. McKay

23 CSR No. 9059

24

25